

WHATCOM COUNTY, WASHINGTON
Special Audit
October 1, 1993 Through March 31, 1994

Schedule Of Findings

1. The County Executive Should Request Proper Approval For Professional Service Contracts And Should Set Compensation Of Employees Within The Approved Salary Matrix

The county executive, Shirley Van Zanten, failed to request proper council approval of the county's professional service contracts with Mr. Paul Rushing, the former public works director. Further, the county executive agreed to compensate Mr. Rushing at a higher rate than allowed by county council resolution.

Whatcom County Code Chapter 3.08.100) "Contract approval required" states:

Contracts for professional services exceeding \$10,000, bids exceeding \$25,000 and all real property leases must be submitted to the county council for approval.

Both of the contracts between Whatcom County and Paul Rushing referred to below state:

I. RELATIONSHIP OF PARTIES

The parties intend that an employer/employee relationship will be created by this Agreement.

Whatcom County Charter Section 2.20) "Powers" states in part:

The county council shall exercise its legislative power by adoption and enactment of ordinances or resolutions. It shall have power:

. . . (b) To establish the compensation to be paid to all county officers and employees and to provide for the reimbursement of expenses . . .

Resolution No. 92-070, "A Resolution In The Matter of Adopting A Salary Schedule For The Unrepresented Whatcom County Employees For The Year 1993" states in part:

. . . 1. The term "unrepresented employee" shall include elected and non-represented employees. The term "elected employee" shall include only those officials elected pursuant to the provisions of the Whatcom County Charter and Washington State Law. The term "non-represented employee" shall include all other unrepresented employees . . .

3. The monthly salaries of the unrepresented employees shall be established within the ranges and steps provided in Exhibit A, the so

called "Exempt Salary Matrix", which provides for a 0% increase over the 1992 matrix

The highest salary on the matrix is Range 30, Step 7A which is \$5,450 per month.

The following is a summary of the actions taken:

- a. On August 13, 1993, the county executive signed a contract with Mr. Rushing for employment from October 1, 1993, through the substantial completion of the courthouse project. The contracted compensation was to be at the rate of \$35 per hour.

Based upon recalculation of employment hours through December 1993 for the proportionate number of hours worked in October the total payments to Mr. Rushing would have far exceeded the \$10,000 threshold. The contract was not submitted to council for approval.

- b. A new agreement was signed on November 9, 1993, by the county executive and Mr. Rushing, effective November 1, 1993, through substantial completion of the project or Mr. Rushing receiving three months compensation. The new agreement referred to Mr. Rushing as being an employee of the county. The terms of the new contract stated that Mr. Rushing was to receive a monthly salary of \$8,333 on or before December 10, 1993, January 10, 1994, and February 10, 1994. The total contracted compensation exceeded \$10,000 and again was not submitted to council for approval. Additionally, the monthly salary once again exceeded the \$5,450 ceiling for monthly employee compensation set by resolution.

The county executive's failure to submit the contracts with Mr. Rushing to the county council for approval and the agreement to pay Mr. Rushing a higher compensation than allowed by resolution resulted in violations of the *Whatcom County Code* and the county executive overstepping the authority allowed by that code. Also, as result of the council not being informed, they were unable to provide oversight to ensure the county paid appropriate compensation for the work performed.

We recommend county management ensure all contracts that meet the definition of "professional services" be submitted to the council for approval and that the council clarify the definition of "professional services" in the code. We further recommend county management ensure all compensation paid to employees falls within the matrix established by resolution or seek the council's approval for compensation outside the matrix.

2. Only Qualifying Expenses Should Be Reimbursed

Expense claims submitted by Mr. Paul Rushing for October through December 1993 included the following unqualified expenses.

- a. Claims totaling \$811.32 for meals consumed in Bellingham. These meals, per Mr. Rushing, were for meetings with various representatives of architectural and engineering firms contracted by the county for the courthouse construction. Mr. Rushing did not state on his reimbursement request that the claims were for meals not eaten by himself.
- b. Claims totaling \$886.08 for local mileage for his personal vehicle. This local mileage includes commuter miles driven by Mr. Rushing between home and work, trips to meet architectural representatives at the airport, and miles driven on the vehicle when Mr. Rushing loaned the vehicle to representatives of the architect. The miles may also have included miles for personal business as Mr. Rushing determined the number of miles driven each month by claiming the difference between the odometer readings between each submitted employee expense claim.
- c. Claims of \$23 for other unidentified expenses and \$119.50 for hotel rooms for representatives of an architectural firm.

Portions of these claims are unsubstantiated and/or unreasonable, while the remaining portions are not allowed under state law and the Whatcom County Code.

Article VIII, Section 7 of the *Constitution of the State of Washington* - Credit Not To Be Loaned states in part:

No county, city, town or other municipal corporation shall hereafter give any money, or property, or loan its money, or credit to or in aid of any individual

Both of the contracts between Whatcom County and Paul Rushing referred to in Finding 1 state:

I. RELATIONSHIP OF PARTIES

The parties intend that an employer/employee relationship will be created by this Agreement.

RCW 42.24.090) Municipal corporations and political subdivisions) Reimbursement claims by officers and employees states in part:

No claim for reimbursement of any expenditures by officers or employees of any municipal corporation or political subdivision of the state for transportation, lodging, meals or any other purpose shall be allowed by any officer, employee or board charged with auditing accounts unless the same shall be presented in a detailed account: PROVIDED, That, unless otherwise authorized by law, the legislative body of any municipal corporation or political subdivision of the state may prescribe by ordinance or resolution the amounts to be paid officers or employees thereof as reimbursement for the use of their personal automobiles or other transportation equipment in connection with officially assigned duties and other travel for approved public purposes.

or as reimbursement to such officers or employees in-lieu-of actual expenses incurred for lodging, meals or other purposes

All claims authorized under this section shall be duly certified by the officer or employee submitting such claims on forms and in the manner prescribed by the division of municipal corporations in the office of the state auditor. (Emphasis added.)

Section 3.02.090 of the *Whatcom County Code* states in part:

A. No claim for reimbursement of any expenditures by officers or employees of Whatcom County for transportation, lodging, meals or any other purposes shall be allowed unless the same shall be presented in a form prescribed in the Whatcom County Administrative Policies and Procedures Handbook. The amounts to be paid officers or employees as reimbursement for the use of their personal automobiles or other transportation equipment in connection with officially assigned duties and other pre-approved travel for public purposes, or as reimbursement in-lieu-of actual expenses incurred for lodging, meals or other pre-approved travel for public purposes, or as reimbursement in-lieu-of actual expenses incurred for lodging, meals or other purposes, shall be as prescribed in the Whatcom County Administrative Policies and Procedures Handbook

Whatcom County Code Section 2.64.040, Mileage Rate states in part:

The rate at which officers and employees of Whatcom County are entitled to be reimbursed for preauthorized use of personal automobiles or other transportation equipment in connection with or in the course of their officially assigned duties or other approved travel is fixed at twenty-one cents per mile or a flat monthly rate as set by the county executive if the cost is less than providing a public vehicle

Whatcom County Code Section 2.64.050, Travel expenses)Reimbursement schedule states in part:

County officials and employees will be reimbursed travel expenses for pre-authorized, approved travel for public purposes according to the following schedule:

<u>Purpose</u>	<u>Reimbursement</u>
Transportation	
air, train, bus	At cost, receipt required
taxi, ferry tolls	At cost, itemized
Overnight lodging	
Hotel or motel	At cost, receipt required
Meals	At cost, sworn declaration of cost or receipt required
Telephone	
Business calls only	At cost, itemized and place called
Parking	At cost, receipt required

Registration fees	At cost, receipt required
Hosting and entertainment	None
Miscellaneous	At cost, itemized receipt required

No other reference to reimbursement for expenses could be found in the code or the *Administrative Policies and Procedures Handbook*.

Mr. Rushing's assumption the code did not apply to his activities and county management's failure to stop the processing of these claims, resulted in Mr. Rushing receiving a total of \$1,839.90 in payments for unallowable claims. Also, Mr. Rushing's request for reimbursement for meals provided to contractor representatives resulted in a gift of public funds.

We recommend the county seek reimbursement for the \$1,839.90 in unallowable expenses reimbursed to Mr. Rushing.